

**BEFORE THE ALCOHOLIC BEVERAGE CONTROL APPEALS BOARD
OF THE STATE OF CALIFORNIA**

AB-9839

File: 21-479721; Reg: 19088501

GARFIELD BEACH CVS, LLC and LONGS DRUG STORES CALIFORNIA, LLC,
dba CVS Pharmacy #9145
9730 Mission Gorge Road, Santee, CA 92071-3808,
Appellants/Licensees

v.

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL,
Respondent

Administrative Law Judge at the Dept. Hearing: Doris Huebel

Appeals Board Hearing: March 5, 2020
Los Angeles, CA

ISSUED MARCH 19, 2020

Appearances: *Appellants:* Adam N. Koslin, of Solomon, Saltsman & Jamieson, as
counsel for Garfield Beach CVS, LLC and Longs Drug Stores
California, LLC,

Respondent: John P. Newton, as counsel for the Department of
Alcoholic Beverage Control.

OPINION

Garfield Beach CVS, LLC and Longs Drug Stores California, LLC, doing
business as CVS Pharmacy #9145, appeal from a decision of the Department of
Alcoholic Beverage Control¹ suspending their license for 10 days because their clerk
sold an alcoholic beverage to a police minor decoy, in violation of Business and
Professions Code section 25658, subdivision (a).

¹The decision of the Department, dated September 6, 2019, is set forth in the
appendix.

FACTS AND PROCEDURAL HISTORY

Appellants' off-sale general license was issued on September 14, 2009. There is no record of prior departmental discipline against the license.

On January 28, 2019, the Department filed an accusation against appellants charging that, on October 5, 2018, appellants' clerk, Marie Angela Oefinger (the clerk), sold an alcoholic beverage to 17-year-old B.G. (the decoy).² Although not noted in the accusation, the decoy was working for the San Diego Sheriff's Office at the time.

At the administrative hearing held on June 4, 2019, documentary evidence was received and testimony concerning the sale was presented by the decoy and SDSO Deputy Troy Udvarhelyi. Appellants presented no witnesses.

Testimony established that on October 5, 2018, Dep. Udvarhelyi entered the licensed premises in a plain clothes capacity, followed shortly thereafter by the decoy. The decoy went to the cooler where he selected a three-pack of Bud Light beer. He took the beer to the register and waited in line. A second register opened and he went to that register. He set the beer down and the clerk scanned the beer.

The clerk asked for the decoy's identification and he handed her his California driver's license, which had a portrait orientation, contained his correct date of birth, showing him to be 17 years old, and a red stripe indicating "AGE 21 IN 2019." (Exh. 3.) The clerk manually entered a birth date into the register (which was not the decoy's) in order to make the sale. She then completed the sale without asking the decoy any age-related questions.

² We refer to the decoy by his initials since he is a minor.

Dep. Udvarhelyi observed the transaction from inside the store. Subsequently, the decoy made a face-to-face identification of the clerk and a photo of the two of them was taken. (Exh. 4.) The underlying facts of this case are not at issue in this appeal.

The administrative law judge (ALJ) issued a proposed decision on June 25, 2019, sustaining the accusation and recommending the license be suspended for 15 days. The Department adopted the proposed decision on August 14, 2019 but reduced the penalty to a 10-day suspension, as reflected in the order issued on September 4, 2019. A certificate of decision was issued on September 6, 2019.

Appellants then filed a timely appeal contending (1) insufficient mitigation was given for appellants' nine years of discipline-free operation, and (2) it was improper to consider the fact that the clerk looked at the minor's ID as a factor in aggravation. These issues will be considered together.

DISCUSSION

Appellants contend that the ALJ improperly weighed factors in aggravation and mitigation in determining the penalty. They maintain,

In the instant matter, the [ALJ] discounted Appellants' documented 9 year, 21-day discipline-free period of licensure. Her reasoning for doing so hinges on not the presence of enumerated aggravating evidence, but rather the absence of additional mitigation - evidence of subsequent positive steps or documented training.

(AOB at p. 5.) They further maintain the ALJ erred "when she reasoned that the mere fact that Appellants' clerk asked for ID, saw a vertical-formatted card with a red stripe, and still completed the sale, was evidence for aggravation . . ." (*Id.* at p. 6.)

The Board will not disturb the Department's penalty order in the absence of an abuse of discretion. (*Martin v. Alcoholic Bev. Control Appeals Bd. & Haley* (1959) 52 Cal.2d 287, 291 [341 P.2d 296].) "Abuse of discretion" in the legal sense is defined as

“discretion exercised to an end or purpose not justified by and clearly against reason, all of the facts and circumstances being considered. [Citations.]” (*Brown v. Gordon*, 240 Cal.App.2d 659, 666-667 (1966) [49 Cal.Rptr. 901].) If the penalty imposed is reasonable, the Board must uphold it even if another penalty would be equally, or even more, reasonable. “If reasonable minds might differ as to the propriety of the penalty imposed, this fact serves to fortify the conclusion that the Department acted within its discretion.” (*Harris v. Alcoholic Bev. Control Appeals Bd.* (1965) 62 Cal.2d 589, 594 [43 Cal.Rptr. 633].)

Rule 144 provides:

In reaching a decision on a disciplinary action under the Alcoholic Beverage Control Act (Bus. and Prof. Code Sections 23000, et seq.), and the Administrative Procedures Act (Govt. Code Sections 11400, et seq.), the Department shall consider the disciplinary guidelines entitled “Penalty Guidelines” (dated 12/17/2003) which are hereby incorporated by reference. Deviation from these guidelines is appropriate where the Department in its sole discretion determines that the facts of the particular case warrant such a deviation - such as where facts in aggravation or mitigation exist.

(Cal. Code Regs., tit. 4, § 144.)

Among the mitigating factors provided by the rule are the length of licensure without prior discipline, positive actions taken by the licensee to correct the problem, cooperation by the licensee in the investigation, and documented training of the licensee and employees. Aggravating factors include, *inter alia*, prior disciplinary history, licensee involvement, lack of cooperation by the licensee in the investigation, and a continuing course or pattern of conduct. (*Ibid.*)

The Penalty Policy Guidelines further address the discretion necessarily involved in an ALJ's recognition of aggravating or mitigating evidence:

Penalty Policy Guidelines:

The California Constitution authorizes the Department, in its discretion[,] to suspend or revoke any license to sell alcoholic beverages if it shall determine for good cause that the continuance of such license would be contrary to the public welfare or morals. The Department may use a range of progressive and proportional penalties. This range will typically extend from Letters of Warning to Revocation. These guidelines contain a schedule of penalties that the Department usually imposes for the first offense of the law listed (except as otherwise indicated). These guidelines are not intended to be an exhaustive, comprehensive or complete list of all bases upon which disciplinary action may be taken against a license or licensee; nor are these guidelines intended to preclude, prevent, or impede the seeking, recommendation, or imposition of discipline greater than or less than those listed herein, in the proper exercise of the Department's discretion.

(Ibid.)

The proposed decision included the following explanation in regards to the penalty determination:

PENALTY

The Department requested the Respondents' license be suspended for a period of 15 days, acknowledging Respondents' approximate 10-year discipline-free history, but arguing aggravating factors. Those factors include, (1) the decoy's youthful appearance and actual age, 17, at the time of the operation, and that (2) clerk Oefinger "had to jump through several hoops" with the cash register software to sell alcohol to decoy Brandon, which is further evidence of a problem with Respondents' training - Respondents need to inform their clerks that merely asking for an ID is not sufficient, they should read the IDs too.

The Respondents recommended either a 5-day penalty or, in the alternative, a 10-day all stayed penalty, based on the Respondents' nearly 10-year discipline-free history, which provides circumstantial evidence that its training is working.

Respondents are correct that their nine year, 21-day discipline-free operation warrants some mitigation. However, there was no evidence Respondents took any positive steps to prevent future sale to minor violations, or of documented training, including , but not limited to training involving the red flags of minor's IDs. While the Respondents argue clerk Oefinger made a mistake, clerk Oefinger held in her hand a vertically formatted minor's ID with a red stripe reading, "AGE 21 IN 2019." That,

alone, should have been sufficient to alert her that a minor stood before her. It behooves the Respondents to instruct their employees at least, on the distinct red flags of minors' vertical formatted IDs, which are a simple tool for their clerks to use when presented with a minor's ID during a transaction involving age-restricted products. It is found the standard penalty is called for based on weighing the aggravating and mitigating factors. The penalty recommended herein complies with rule 144.

(Decision at pp. 5-6.)

The proposed decision recommended a 15-day suspension, but when the Department adopted the proposed decision it reduced the penalty to a 10-day suspension. No explanation was included in the Department's order regarding what factors influenced the decision to reduce the penalty.

Appellants argue only against the rationale put forth by the ALJ and ignore entirely the reduced penalty in the Department's final decision. Appellants clearly were given credit for their long period of operation without discipline. Further, we fail to see how appellants can argue that the penalty was aggravated when in fact they have received a mitigated penalty — albeit, not to the degree they would have wished, but mitigated nonetheless.

Appellant's disagreement with the penalty imposed does not mean the Department abused its discretion. This Board's review of a penalty looks only to see whether it can be considered reasonable, and, if it is reasonable, the Board's inquiry ends there. The penalty here is within the bounds of the Department's discretion, and the Board is simply not empowered to reach a contrary conclusion from that of the Department — and substitute its own judgment — when, as here, the underlying decision is reasonable and supported by substantial evidence.

We find no abuse of discretion.

ORDER

The decision of the Department is affirmed.³

SUSAN A. BONILLA, CHAIR
MEGAN McGUINNESS, MEMBER
ALCOHOLIC BEVERAGE CONTROL
APPEALS BOARD

³This final order is filed in accordance with Business and Professions Code section 23088, and shall become effective 30 days following the date of the filing of this order as provided by section 23090.7 of said code.

Any party, before this final order becomes effective, may apply to the appropriate court of appeal, or the California Supreme Court, for a writ of review of this final order in accordance with Business and Professions Code section 23090 et seq.

APPENDIX

**BEFORE THE
DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL
OF THE STATE OF CALIFORNIA**

**IN THE MATTER OF THE ACCUSATION
AGAINST:**

GARFIELD BEACH CVS LLC, AND
LONGS DRUG STORES CALIFORNIA LLC
CVS PHARMACY 9145
9730 MISSION GORGE ROAD
SANTEE, CA 92071-3808

OFF-SALE GENERAL - LICENSE

Respondent(s)/Licensee(s)
Under the Alcoholic Beverage Control Act

SAN DIEGO DISTRICT OFFICE

File: 21-479721

Reg: 19088501

CERTIFICATE OF DECISION

It is hereby certified that, having reviewed the findings of fact, determination of issues, and recommendation in the attached proposed decision, the Department of Alcoholic Beverage Control adopted said proposed decision as its decision in the case on August 14, 2019. Pursuant to Government Code section 11519, this decision shall become effective 30 days after it is delivered or mailed.

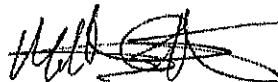
Any party may petition for reconsideration of this decision. Pursuant to Government Code section 11521(a), the Department's power to order reconsideration expires 30 days after the delivery or mailing of this decision, or if an earlier effective date is stated above, upon such earlier effective date of the decision.

Any appeal of this decision must be made in accordance with Business and Professions Code sections 23080-23089. For further information, call the Alcoholic Beverage Control Appeals Board at (916) 445-4005, or mail your written appeal to the Alcoholic Beverage Control Appeals Board, 1325 J Street, Suite 1560, Sacramento, CA 95814.

On or after October 17, 2019, a representative of the Department will contact you to arrange to pick up the license certificate.

Sacramento, California

Dated: September 6, 2019



Matthew D. Botting
General Counsel

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SEP 06 2019

Alcoholic Beverage Control
Office of Legal Services

**BEFORE THE
DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL
OF THE STATE OF CALIFORNIA**

**IN THE MATTER OF THE ACUUSATION
AGAINST:**

Garfield Beach CVS LLC and
Longs Drug Stores California LLC
Dbas CVS Pharmacy 9145
9730 Mission Gorge Road
Santee, CA 92071-3808

Respondent(s)/Licensee(s).

File No.: 21-479721

Reg. No.: 19088501

ORDER

Having adopted the Proposed Decision of the Administrative Law Judge dated June 25, 2019, in the above-entitled matter, and pursuant to Business and Professions Code section 24211, the Department hereby reduces the discipline in this matter as follows:

The Respondents' off-sale general license is hereby suspended for a period of 10 days.

Sacramento, California

Dated: September 4, 2019



Matthew Botting
General Counsel

For: Jacob Appelsmith
Director

Pursuant to Government Code section 11521(a), any party may petition for reconsideration of this decision. The Department's power to order reconsideration expires 30 days after the delivery or mailing of this decision, or on the effective date of the decision, whichever is earlier.

Any appeal of this decision must be made in accordance with Chapter 1.5, Articles 3, 4 and 5, Division 9, of the Business and Professions Code. For further information, call the Alcoholic Beverage Control Appeals Board at (916) 445-4005.

**BEFORE THE
DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL
OF THE STATE OF CALIFORNIA**

IN THE MATTER OF THE ACCUSATION AGAINST:

Garfield Beach CVS LLC, and	}	File: 21-479721
Longs Drug Stores California LLC	}	
Dbas: CVS Pharmacy 9145	}	Reg.: 19088501
9730 Mission Gorge Road	}	
Santee, California 92071-3808	}	License Type: 21
	}	
Respondents	}	Word Count: 7,346
	}	
	}	Reporter:
	}	Fabian Schwin
	}	Kennedy Court Reporters
	}	
<u>Off-Sale General License</u>	}	<u>PROPOSED DECISION</u>

Administrative Law Judge D. Huebel, Administrative Hearing Office, Department of Alcoholic Beverage Control, heard this matter at San Diego, California, on June 4, 2019.

John Newton, Attorney, represented the Department of Alcoholic Beverage Control.

Donna Hooper, Attorney, represented Respondents, Garfield Beach CVS LLC, and Longs Drug Stores California LLC.

The Department seeks to discipline the Respondents' license on the grounds that, on or about October 5, 2018, the Respondents-Licensees' agent or employee, Marie Angela Oefinger, at said premises, sold, furnished, gave or caused to be sold, furnished or given, an alcoholic beverage, to-wit: beer, to B.G., a person under the age of 21, in violation of Business and Professions Code section 25658(a).¹ (Exhibit 1.)

Oral evidence, documentary evidence, and evidence by oral stipulation on the record was received at the hearing. The matter was argued and submitted for decision on June 4, 2019.

FINDINGS OF FACT

1. The Department filed the accusation on January 28, 2019.

¹ All statutory references are to the Business and Professions Code unless otherwise noted.

2. The Department issued a type 21, off-sale general license to the Respondents for the above-described location on September 14, 2009 (the Licensed Premises).
3. There is no record of prior departmental discipline against the Respondents' license.
4. B.G. (hereinafter referred to as decoy Brandon) was born on March 29, 2001. On October 5, 2018, he was 17 years old. On that date he served as a minor decoy in an operation conducted by the San Diego County Sheriff's Department (hereinafter referred to as SD Sheriff's Dept.).
5. Decoy Brandon appeared and testified at the hearing. On October 5, 2018, he was 5'11" tall and weighed approximately 170 pounds. He wore a black windbreaker hooded jacket, over a maroon shirt, khaki colored shorts, and black and white Vans shoes. He did not wear the hood of the jacket. (Exhibits 2 and 4.) His appearance at the hearing was the same except he weighed 176 pounds, and he wore a navy-blue pullover jacket over his maroon-colored shirt.
6. On October 5, 2018, at approximately 8:00 p.m., SD Sheriff's Dept. Deputy Udvarhelyi entered the Licensed Premises in a plain clothes capacity, followed shortly thereafter by decoy Brandon. Decoy Brandon walked straight to the alcoholic beverage refrigerators and selected a three-pack of Bud Light beer. (Exhibit 4.) Decoy Brandon took the beer to the cash register area for purchase and waited in line behind two patrons. There was one clerk working behind the sales counter. A second clerk opened a second cash register and decoy Brandon walked to that second clerk's register.
7. Decoy Brandon placed the three-pack of Bud Light beer upon the sales counter. The clerk, Marie Angela Oefinger (hereinafter referred to as clerk Oefinger), scanned the beer and asked the decoy for his ID. Decoy Brandon handed clerk Oefinger his valid California Driver License, which clerk Oefinger accepted. Decoy Brandon's California Driver license had a vertical orientation, showed his correct date of birth and included a red stripe, "AGE 21 IN 2019." (Exhibit 3.) There was no evidence clerk Oefinger asked decoy Brandon any questions about his age or ID. Clerk Oefinger continued with the sales transaction and manually entered into the screen prompt a date of birth which was not Decoy Brandon's. Clerk Oefinger handed the ID back to the decoy. Decoy Brandon handed money to the clerk, who then provided the decoy with change. Decoy Brandon took the three-pack of Bud Light beer and exited the store. Deputy Udvarhelyi witnessed these above-described events² with a clear, unobstructed view, while posing as a customer. Deputy Udvarhelyi exited the store soon after the decoy.

² Except that Deputy Udvarhelyi did not see what clerk Oefinger entered into the screen prompt.

8. Decoy Brandon re-entered the Licensed Premises with Deputy Udvarhelyi, and other Sheriff's deputies, who all walked up to the cash register, behind which stood clerk Oefinger. Deputy Udvarhelyi made contact with clerk Oefinger, identified himself as a police officer, and explained the violation to the clerk. Deputy Udvarhelyi had clerk Oefinger walk around to the customer side of the sales counter. Decoy Brandon was standing next to Deputy Udvarhelyi.
9. Deputy Udvarhelyi asked decoy Brandon to identify the person who sold him the beer. Decoy Brandon pointed at clerk Oefinger and identified clerk Oefinger as the person who sold him the three-pack of Bud Light beer. Decoy Brandon and clerk Oefinger were standing approximately five feet apart and facing each other at the time of this identification. A photo of clerk Oefinger and decoy Brandon was taken, with decoy Brandon holding the Bud Light beer in his left hand and his California Driver License in his right hand, while standing next to clerk Oefinger. (Exhibit 4.) After the photograph was taken, decoy Brandon exited the store.
10. Clerk Oefinger did not appear and did not testify at the hearing. There is no evidence clerk Oefinger was distracted during the sales transaction with the decoy or during the face-to-face identification.
11. October 5, 2018, was the first day of decoy operations in which decoy Brandon had participated. He learned of the decoy program from an on-duty officer at his high school. Decoy Brandon does not volunteer in any other law enforcement programs.
12. On October 5, 2018, decoy Brandon visited a total of four locations, with the Licensed Premises the only location to sell alcoholic beverages to him.
13. Decoy Brandon appeared his age at the time of the decoy operation. Based on his overall appearance, i.e., his physical appearance, dress, poise, demeanor, maturity, and mannerisms shown at the hearing, and his appearance and conduct in front of clerk Oefinger at the Licensed Premises on October 5, 2018, decoy Brandon displayed the appearance which could generally be expected of a person under 21 years of age under the actual circumstances presented to the clerk. In-person, decoy Brandon appears quite youthful, as a teenager.
14. Deputy Udvarhelyi asked clerk Oefinger to walk him through how she was able to complete the sale of alcoholic beverage to decoy Brandon. Clerk Oefinger acquiesced and rang up the same three-pack of Bud Light beer on the cash register. A screen prompt appeared, "Drivers License or I.D. Card Present?" with three options, "Yes, No, Cancel." (Exhibit 5B.) Clerk Oefinger pressed an option, and another screen prompt appeared requesting the clerk manually input the date of birth with a numerical keypad. (Exhibit

5C.) Clerk Oefinger was shown decoy Brandon's California Driver's License, from which she retrieved the decoys date of birth and manually entered it into the screen prompt. Another screen prompt appeared stating "INVALID DATE PLEASE TRY AGAIN, OK." (Exhibit 5D.) Deputy Udvarhelyi asked clerk Oefinger what birthdate she entered to bypass the safety protocol of the prior screen. Clerk Oefinger claimed she was not sure but thought she entered 1992. Clerk Oefinger claimed she may have entered the numbers incorrectly by mistake.

15. Except as set forth in this decision, all other allegations in the accusation and all other contentions of the parties lack merit.

CONCLUSIONS OF LAW

1. Article XX, section 22 of the California Constitution and section 24200(a) provide that a license to sell alcoholic beverages may be suspended or revoked if continuation of the license would be contrary to public welfare or morals.

2. Section 24200(b) provides that a licensee's violation, or causing or permitting of a violation, of any penal provision of California law prohibiting or regulating the sale of alcoholic beverages is also a basis for the suspension or revocation of the license.

3. Section 25658(a) provides that every person who sells, furnishes, gives, or causes to be sold, furnished, or given away, any alcoholic beverage to any person under the age of 21 years is guilty of a misdemeanor.

4. Cause for suspension or revocation of the Respondents' license exists under Article XX, section 22 of the California State Constitution and sections 24200(a) and (b) on the basis that on October 5, 2018, the Respondents-Licensees' agent or employee, clerk, Marie Angela Oefinger, inside the Licensed Premises, sold an alcoholic beverage to B.G. (Brandon), a person under the age of 21, in violation of Business and Professions Code section 25658(a). (Findings of Fact ¶¶ 4 through 13.)

5. The Respondents argued the decoy operation at the Licensed Premises failed to comply with rule 141(b)(2)³ and, therefore, the accusation should be dismissed pursuant to rule 141(c).

6. With respect to rule 141(b)(2), Respondents argued decoy Brandon did not have the appearance of someone under the age of 21. This rule 141(b)(2) argument is rejected. Respondents' unsupported assertions are nothing but assumption and conjecture. Clerk

³ All rules referred to herein are contained in title 4 of the California Code of Regulations unless otherwise noted.

Oefinger did not testify; so there was no evidence that appearance was a factor in the reason why she made the sale. In fact, the evidence was clear, decoy Brandon had the appearance generally expected of a person under the age of 21. In fact, in-person, decoy Brandon has a very youthful appearance, as that of a teenager. (Finding of Fact ¶ 13.)

7. In determining the credibility of a witness, as provided in section 780 of the Evidence Code, the administrative law judge may consider any matter that has any tendency in reason to prove or disprove the truthfulness of the testimony at the hearing, including the extent of the opportunity of the witness to perceive any matter about which the witness testifies, the existence or nonexistence of any fact testified to by the witness, and the existence or nonexistence of a bias, interest, or other motive.

8. If weaker and less satisfactory evidence is offered when it was within the power of the party to produce stronger and more satisfactory evidence, the evidence offered should be viewed with distrust. (Evidence Code, section 412.)

9. Respondents' contentions that clerk Oefinger entered 1992 by mistake and may have entered the numbers incorrectly are disbelieved for the following reasons. Clerk Oefinger's hearsay statements are given little weight and found to be self-serving and inconsistent with the evidence. In looking at the numerical keypad on Exhibit 5C, it is clear from the positioning of the numbers that clerk Oefinger did not mistakenly or incorrectly enter the birth year of 1992 instead of 2001 during the said sales transaction. The "9" and "0" are on opposite ends of the numerical keypad and the positioning of the numbered keypad made entering 1992 nowhere near or similar to entering 2001. Additionally, clerk Oefinger held decoy Brandon's vertically formatted minor's ID with a red stripe reading, "AGE 21 IN 2019," which alone was a red flag that a minor stood before her. When asked what birthdate she entered, clerk Oefinger readily answered Deputy Udvarhelyi with the year 1992. It is more probable than not, based on the preponderance of the evidence and weighing the factors of the Evidence Code sections cited above, that clerk Oefinger purposely entered 1992 as part of a pseudo-birthdate so the register would allow the sale of beer to the decoy.

PENALTY

The Department requested the Respondents' license be suspended for a period of 15 days, acknowledging Respondents' approximate 10-year discipline-free history, but arguing aggravating factors. Those factors include, (1) the decoy's youthful appearance and actual age, 17, at the time of the operation, and that (2) clerk Oefinger "had to jump through several hoops" with the cash register software to sell alcohol to decoy Brandon, which is further evidence of a problem with Respondents' training - Respondents need to inform their clerks that merely asking for an ID is not sufficient, they should read the IDs too.

The Respondents recommended either a 5-day penalty or, in the alternative, a 10-day all stayed penalty, based on the Respondents' nearly 10-year discipline-free history, which provides circumstantial evidence that its training is working.

Respondents are correct that their nine year, 21-day discipline-free operation warrants some mitigation. However, there was no evidence Respondents took any positive steps to prevent future sale to minor violations, or of documented training, including, but not limited to training involving the red flags of minor's IDs. While the Respondents argue clerk Oefinger made a mistake, clerk Oefinger held in her hand a vertically formatted minor's ID with a red stripe reading, "AGE 21 IN 2019." That, alone should have been sufficient to alert her that a minor stood before her. It behooves the Respondents to instruct their employees, at least, on the distinct red flags of minors' vertical formatted IDs, which are a simple tool for their clerks to use when presented with a minor's ID during a transaction involving age-restricted products. It is found the standard penalty is called for based on weighing the aggravating and mitigating factors. The penalty recommended herein complies with rule 144.

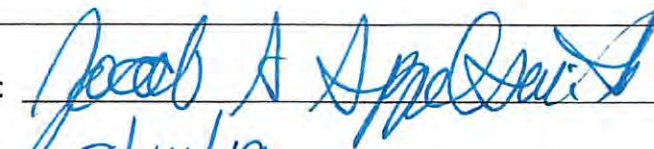
ORDER

The Respondents' off-sale general license is hereby suspended for a period of 15 days.

Dated: June 25, 2019



D. Huebel
Administrative Law Judge

<input checked="" type="checkbox"/>	Adopt	→ But penalty reduced to 10 days.
<input type="checkbox"/>	Non-Adopt:	_____
By:		
Date:	8/14/19	